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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210274
Party	Defendant Sprout Social, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SproutLoud MediaNetworks, LLC

Opposer

Opposition No. 91210274

v.

Sprout Social, Inc.

Application No. 85/613,523

Applicant

**ANSWER TO NOTICE OF OPPOSITION  
OF REGISTRATION OF TRADEMARK**

Sprout Social, Inc. ("Applicant"), by and through its attorneys, hereby answers the Notice of Opposition filed by SproutLoud MediaNetworks, LLC ("Opposer"), with the following responses, affirmative defenses, and prayer for relief:

1. Upon information and belief, Sprout Social, Inc. ("Applicant"), a Delaware corporation, located and doing business at 30 North Racine, Chicago, Illinois 60607, filed the Opposed Application on May 1, 2012, for the mark SPROUT SOCIAL ("Applicant's Trademark").

**Answer:**

Admitted.

2. Applicant seeks registration of the Opposed Application on the Principal Register based on the purported use of Applicant's Trademark in commerce in connection with the following services:

Providing a website featuring temporary use of non-downloadable software for businesses to interact with consumers over a global communication network through social channels, to track and analyze communications across those channels and to maintain records of those communications, all in order to improve business operations and strengthen business to consumer communication, in International Class 041.

**Answer:**

Admitted.

3. In the Opposed Application, Applicant claims Applicant's Trademark was first used in commerce by Applicant at least as early as November 2009.

**Answer:**

Admitted.

4. Opposer believes that it will be damaged by registration of Applicant's Trademark.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

5. Opposer is the owner of United States Trademark Registration No. 3,479,061 registered August 5, 2008 for the mark SPROUT LOUD and Design ("Opposer's Registration") in respect of:

Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others, in International Class 035.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

6. Opposer is the owner of United States Trademark Application No. 85/978,874 filed July 23, 2012 for the mark SPROUTLOUD in respect of:

a. Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others; Advertising and marketing services provided by means of marketing communications, namely, through direct mail and print marketing communications channels; Advertising and marketing services provided by means of marketing communications, namely, through e-mail communications channels; Advertising and marketing services provided by means of marketing communications, namely, through, social media, Internet marketing and search

engine marketing communication channels; Advertising and marketing services provided by means of marketing communications, namely, through, mobile device marketing, blogging and other forms of passive, sharable or viral communications channels, in International Class 035; and

b. Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of marketing and advertising, in International Class 042.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

7. Opposer is the owner of United States Trademark Application No. 85/684,540 filed July 23, 2012 for the mark SPROUTLOUD in respect of:

Downloadable computer software for use in the fields of marketing and advertising, in International Class 009.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

8. Opposer has made use in commerce of the mark SPROUT LOUD and Design in respect of:

Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others, in International Class 035.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

9. Opposer has made use in commerce of the mark SPROUTLOUD in respect of:

a. Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and

news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others; Advertising and marketing services provided by means of marketing communications, namely, through direct mail and print marketing communications channels; Advertising and marketing services provided by means of marketing communications, namely, through e-mail communications channels; Advertising and marketing services provided by means of marketing communications, namely, through, social media, Internet marketing and search engine marketing communication channels; Advertising and marketing services provided by means of marketing communications, namely, through, mobile device marketing, blogging and other forms of passive, sharable or viral communications channels, in International Class 035; and

b. Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of marketing and advertising, in International Class 042.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

10. Opposer's use in commerce of the marks SPROUT LOUD and Design and SPROUTLOUD<sup>1</sup> (collectively "Opposer's Trademarks") commenced at least as early as February 1, 2006 and such use has been continuous since its commencement.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

11. Upon information and belief, Opposer's use of Opposer's Trademarks commenced before Applicant's Use of Applicant's Trademark and Opposer is therefore the senior user.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

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<sup>1</sup> Trademark Application No. 85/978,874

12. Opposer's Trademarks are well-known and distinctive trademarks which Opposer has advertised, promoted, and used since at least as early as February 1, 2006. Based on such long use and promotion, the public has come to readily associate Opposer with the services covered by Opposer's Registration and Opposer's Application No. 85/978,874.

**Answer:**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment, which has the effect of a denial.

13. Applicant's Trademark is confusingly similar in appearance, sound, connotation and commercial impression to Opposer's Trademarks. Moreover, the services offered under Applicant's Trademark are highly similar to the services offered under Opposer's Trademarks.

**Answer:**

Denied.

14. In view of the similarity of the parties' respective marks and the overlapping nature of the parties' respective services, Applicant's mark so resembles Opposer's marks so as to be likely to cause the public to be confused, mistaken, or deceived into believing that Applicant's services originate from Opposer or are in some way related to, associated with, approved by, or sponsored by Opposer.

**Answer:**

Denied.

15. Accordingly, registration of Applicant's Trademark is barred by the provisions of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), in that Applicant's Trademark consists of or comprises a mark which so resembles marks previously used in the United States by Opposer in respect of related services so as to be likely to cause the public to be confused, mistaken or deceived.

**Answer:**

Denied.

16. Registration of Applicant's Trademark would damage Opposer because the public is likely to attribute the source or sponsorship of Applicant's Services to Opposer.

**Answer:**

Denied.

Applicant alleges herein the following Affirmative Defenses:

1. Opposer has failed to state a claim upon which relief can be granted.
2. There is no likelihood of confusion between Applicant's use of the mark SPROUT SOCIAL in connection with Applicant's services as identified in its application and Opposer's use of the marks SPROUTLOUD and SPROUTLOUD and design in connection with its goods and services.

Wherefore, Applicant respectfully requests that the Trademark Trial and Appeal Board deny the relief sought by Opposer, dismiss with prejudice the Notice of Opposition, and grant Applicant such other relief as may be just and proper.

Please address all correspondence to:

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Respectfully submitted,

Date: May 28, 2013

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**CERTIFICATE OF SERVICE**

I hereby certify that this paper is being filed with the Trademark Trial and Appeal Board on May 28, 2013, using the Electronic System for Trademark Trials and Appeals (ESTTA) on the PTOnet.

I further certify that a true and correct copy of this paper was served upon:

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/Jeffrey A. Pine/